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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

KIM ADAMS,

Plaintiff and Appellant,

v.

COUNTY OF KERN et al.,

Defendants and Respondents.

F075266

(Super. Ct. No. BCM-16-000037)

OPINION

APPEAL from an order of the Superior Court of Kern County. Linda S. Etienne, Commissioner.

Geragos & Geragos, Ben J. Meiselas and Noah Geldberg for Plaintiff and Appellant.

Mark L. Nations, County Counsel, and Marshall S. Fontes, Deputy County Counsel, for Defendants and Respondents, County of Kern, Kern County Probation Department, and David M. Kuge.

Weakley & Arendt, James D. Weakley and Brande L. Gustafson for Defendant and Respondent, Reyes Soberon, Jr.

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Kim Adams claims her probation officer, Reyes Soberon, Jr., physically and sexually assaulted her, and threatened her. Adams, in propria persona, presented a claim to the County of Kern (County) pursuant to the Government Claims Act (Gov. Code, § 810 et seq.) (Claims Act),¹ based on the alleged assaults and threats. The claim, which was presented more than six months after Soberon’s last alleged act, was denied as untimely. Adams retained an attorney, who applied to the County for leave to present a late claim. The application, which was presented more than one year after the alleged assault and threats, was also denied. Adams petitioned the trial court for relief from the Claims Act’s requirements, asserting she failed to present a timely claim due to excusable neglect and mental incapacity. The trial court denied the petition.

On appeal, Adams contends the trial court erred in failing to consider her claim of excusable neglect. Respondents² counter the trial court did not have jurisdiction to consider the petition because the application to present a late claim was untimely. We agree with respondents and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On April 5, 2016, Adams, who was representing herself, submitted a signed, handwritten claim to the County, in which she alleged her probation officer, Soberon, sexually and physically assaulted her beginning in April 2012, with the last physical contact in April 2015, and threatened and harassed her by phone until June 2015. Adams further alleged Soberon “manipulated” and “overpowered” her through his authority as an officer, “threatened and s[c]ared” her, and “regularly” told her “ ‘not to tell’ on him.” In an attachment, Adams explained she filed the claim late “because of the strong intimidation and fear” she had been under “the whole time.” Adams was still in fear, as

¹ Undesignated statutory references are to the Government Code.

² Respondents are the County, the Kern County Probation Department (probation department), Soberon and David M. Kuge (collectively, respondents).

she knew the claim would be a public record, and she was scared of Soberon and “what he will do.” Adams said she had been “threatened repeatedly, [and] intimi[dated]” and she had been, and still was, “extremely s[c]ared.” Adams claimed she “was told not to tell anyone or else something would happen to me,” and Soberon told her he had the power to make things happen to her, he would hurt her, and he would have her put in jail. Adams asked that her claim be considered, and an exception made “on the time.” The Kern County Board of Supervisors rejected the claim as untimely, as it was submitted more than six months from the date on which Adams claimed she last was injured.³

Adams then retained counsel. On July 20, 2016, her attorney filed an unverified document entitled “California Government Tort Claim, Notice of Filing and Late Filing Pursuant to Government Code sections 911.4-912.2,” with the County. In a section of the document entitled “Statement of Claim,” it was alleged that from April 2012 through June 2015, Soberon repeatedly molested and sexually assaulted Adams, and threatened to put her in jail for the rest of her life if she refused his advances; after a female probation officer saw sexually suggestive messages from Soberon on Adams’s phone, Adams received threatening calls from Soberon that he was going to kill her; and at that point, Adams “found the courage and went to the Probation Department to report Soberon,” although a “number of probation officers attempted to dissuade [] Adams from making the report.” It was further alleged that when internal affairs investigated the matter, Adams was told she could not speak with anyone, especially the FBI, and could not retain an attorney, and although Soberon was arrested on December 23, 2015, Adams did not learn of the arrest until several months later, when she received a subpoena to appear at the hearing in his criminal case. It was also alleged that the probation department “enabled and attempted to cover up” Soberon’s conduct.

³ In her opening brief, Adams asserts the claim was rejected on May 6, 2016. We are not aware of any factual support for the date of rejection in the appellate record.

Adams asked for leave to file a late claim because probation officers and internal affairs interviewers told her throughout 2015 that she should not retain an attorney, speak to the media, or talk to the FBI, and she was not aware of Soberon's arrest until March 2016. Adams was afraid criminal action would not be taken against Soberon and he would carry out his threat to kill her. It was asserted that Adams was the victim of a sexual assault that was being criminally prosecuted, and her "psychological torment and health based on her victimization" merited the Board of Supervisors accepting Adams's claim. It was alleged in the document that, pursuant to section 911.4, Adams "filed her claim" within one year of accrual of the cause of action. Adams's claim was attached to the document as an exhibit. The document named the following as the persons causing injuries: "Kern County"; "Kern County Probation Department"; "David M. Kuge"; and "Reyes Soberon Jr."

The County treated the document as an application for leave to present a late claim and denied the application on August 1, 2016.

On September 28, 2016, Adams, through her attorney, filed an unverified "Petition for Relief from Government Code section 945.5" in superior court. The petition repeated the allegations made in the July 20, 2016, document as to why Adams did not submit a timely claim: after a female probation officer saw sexually suggestive messages from Soberon on Adams's phone, Adams received threatening calls from Soberon that he was going to kill her; Adams then "found the courage" to report Soberon to the probation department, despite attempts by a "number of probation officers" to dissuade her from making a report; internal affairs investigated the matter and told Adams she could not speak with anyone, especially the FBI, and could not retain an attorney; although Soberon was arrested on December 23, 2015, Adams did not learn of the arrest until several months later; Adams feared criminal action would not be taken against Soberon and he would carry out his threat to kill her; and Adams was the victim of a sexual assault

that was being criminally prosecuted. The petition also alleged the probation department “enabled and attempted to cover up” Soberon’s conduct.⁴

It was asserted in the petition that because County officials told Adams not to go to the FBI or the media, and not to hire a lawyer, Adams “proceeded unrepresented and consequently, some time passed before she became aware of the requirements of section 910 of the California Government Code,” and “[w]hen she learned that it was necessary for her to file a claim under section 910, she did so in pro se as soon as she was able, but it was too late.” When Adams “finally retained counsel, her attorneys promptly filed an application for leave to present a late section 910 claim,” but the “application was flatly denied.” The July 20, 2016, application and the County’s August 1, 2016, denial of the application were attached to the petition as exhibits. No declarations or affidavits were filed with the petition.

Respondents filed an opposition to the petition, in which they argued the petition should be denied because Adams failed to demonstrate a basis for relief, since Adams did not submit any admissible evidence to support the petition’s allegations and there was an insufficient basis for relief based on mistake, inadvertence or excusable neglect. On the first point, respondents argued a petition under section 946.6 must be supported by admissible evidence, and since Adams’s petition was not verified and no affidavits were filed to support the petition or authenticate its exhibits, the petition must be denied.

On the second point, respondents asserted Adams’s only potential basis for relief was mistake, inadvertence, surprise or excusable neglect, but the petition did not expressly state which theory Adams was relying on. Respondents argued Adams failed to establish sufficient factual grounds for relief regardless of the theory she was asserting.

⁴ Adams asserts in her opening brief that “former Chief Probation Officer, Defendant David M. Kuge” also enabled and attempted to cover up Soberon’s conduct. Nowhere in the appellate record, however, is Kuge’s title identified, and the claim, application and petition do not explain Kuge’s role with respect to Adams’s claim.

First, respondents contended there was no evidence to establish Adams's claim that probation officers told her she could not retain an attorney, as she did not submit any evidence to that effect. Moreover, according to declarations from the probation department officers who had contact with Adams when she reported Soberon's assaults—Officers Mata, Gause, McGowan, Romans and Rivas—none of the officers attempted to dissuade Adams from talking to anyone about her allegations or told Adams she could not retain an attorney. In addition, Romans and Rivas both declared that when they escorted Adams to her second interview, Adams commented that her mother was pressuring her to retain an attorney, but she did not want to, and Romans responded it would be fine if she retained counsel.

Respondents next contended the trial court should not accept the reasons Adams gave in the petition for failing to file a timely claim because they varied markedly from the reasons she gave in her claim. While the petition stated Adams filed her claim late because probation department employees told her she could not retain counsel, in the claim the only reason she gave for filing it late was her fear of Soberon.

Finally, respondents contended that to the extent Adams was arguing her failure to submit a timely claim was due to her ignorance of the law, ignorance of the claim presentation requirements does not excuse such failure.

Adams filed a reply brief, along with a declaration from Dr. Susan Ashley and a request to take judicial notice of an uncertified "Criminal Case Information - Case Details" record from Soberon's criminal case. Adams argued she should be granted relief from the Claims Act's requirements under section 946.6, subdivision (c)(1) and (3) because the sexual abuse caused her "severe psychological trauma ... that rendered her unable to comply with Government Code section 911.2's strict six-month time limit." Adams asserted in the reply brief that she had been under the care of clinical psychologist Susan Ashley, Ph.D., who diagnosed her with posttraumatic stress disorder (PTSD), and Ashley's declaration made clear she was in no condition to file a formal claim against the

County in the “immediate wake of the years of sexual abuse she suffered” at Soberon’s hands, as she was unable to revisit the facts of her abuse and present them to the government, which was exacerbated by her fear that filing a claim would result in further injury. Adams argued her severe PTSD made clear her failure to file a timely claim was the result of excusable neglect and lack of mental capacity.

While Adams noted respondents were contesting her claim that County officials told her not to retain an attorney, she asserted that even if respondents’ “version of the facts is assumed to be true,” it had no bearing on her action. Adams argued respondents had notice of her claim well within the six-month period following the conclusion of the sexual abuse perpetrated against her, as the Internal Affairs Division interviewed her multiple times in June 2015, which was “another reason” why she should be granted relief from section 945.4.

In her declaration, Ashley stated she interviewed Adams three times—twice in October 2016 and once in November 2016—and conducted psychological testing. Ashley diagnosed Adams with PTSD that resulted from Soberon’s sexual assaults and threats. Ashley opined that in light of the sexual assaults and threats, as well as the “discouraging response to her disclosure by those in authority,” it was “wholly understandable that she would fail to file a claim in accordance with a government timeline. She had been so tormented by Soberon’s threats that she could not advocate for herself. No authority to whom she reported the sexual assaults and threats [] provided Ms. Adams with any direction, advice, support or information that she could file a claim, and in fact intimidated her and told her she could not tell anyone or seek legal counsel. Victims of sexual assault are vulnerable to the manipulation, threats, directions and insinuations of others, especially those in authority. The psychological disorder of PTSD rendered Ms. Adams so emotionally distraught that her emotional and cognitive functions were impaired and she could not advocate for herself, nor could she function in such a way as to attend to dates, times, or deadlines.”

Only the parties' attorneys appeared at the November 14, 2016, hearing on the petition. Following argument, the trial court took the matter under submission and issued a minute order on November 30, 2016, denying the petition.⁵ The trial court noted the petition failed to identify any grounds on which relief was sought, and there were no declarations or other evidence to support it. While Adams's attorney argued Adams's original claim was under penalty of perjury, the claim itself did not establish any of the grounds for relief contained in section 946.6, subdivision (c). The trial court considered Ashley's declaration, since section 946.6, subdivision (e) permits consideration of any evidence submitted up to and including at the hearing on the petition. The trial court, however, found that while the declaration provided sufficient proof Adams was unable to advocate for herself, it did not establish mental or physical incapacity, as there was nothing in it to show that Adams's disability was so all-encompassing it prevented her from even authorizing someone else to file the claim, citing *Barragan v. County of Los Angeles* (2010) 184 Cal.App.4th 1373. The trial court ordered respondents' counsel to submit an order.⁶

⁵ According to the minute order, no court reporter was present at the hearing. Although Adams could have obtained a settled statement of what occurred at the hearing, as provided in California Rules of Court, rule 8.137, Adams elected to proceed on appeal without a record of the oral proceedings. Respondents argue the record is insufficient for appellate review without a record of what occurred at the hearing. We disagree. No live testimony or other evidence was presented at the hearing, and respondents do not identify any matter addressed at the hearing that was not addressed in the clerk's transcript. We conclude a record of the hearing is not necessary to evaluate the appellate arguments, which are based on the papers before the trial court, rather than the arguments made at the hearing on the motion. (See *People ex rel. Harris v. Shine* (2017) 16 Cal.App.5th 524, 533; Cal. Rules of Court, rule 8.120(b).)

⁶ Adams filed a motion for reconsideration of the minute order on December 12, 2016. Adams argued the trial court failed to discuss the issue of excusable neglect, which was one of the primary grounds that entitled her to relief. Adams argued she established excusable neglect, since Ashley's declaration made clear that a reasonable person suffering from PTSD would have not been able to pursue a timely claim and Adams's PTSD, as well as the representations of County officials, made her failure to seek the

The trial court signed the written order prepared by respondents' counsel on December 23, 2016. The order conformed with the minute order and denied the petition for relief from the Claims Act's claim filing requirement. Respondents served notice of entry of the order on Adams on January 4, 2017. Adams filed a notice of appeal from the trial court's December 23, 2016, order on March 6, 2017.⁷

DISCUSSION

I. Claim Presentation Requirements

The Claims Act imposes a prelitigation claim requirement in order to file "a cause of action for death or for injury" against a public entity. (§ 911.2, subd. (a).) A claim relating to a cause of action for injury to the person must be presented not later than six months after accrual of the cause of action. (*Ibid.*) If a claim is not presented within six months, the claimant must apply to the public entity in writing for leave to present a late claim. (§ 911.4, subd. (a).) This application must be within a reasonable time, not to exceed one year from the claim's accrual. (§ 911.4, subd. (b).)⁸

If the public entity denies the late-claim application, the claimant may petition the superior court for relief from the claim presentation requirements of section 945.4. (§ 946.6, subd. (a).)⁹ A petitioner must show he or she applied to the public entity for

assistance of counsel entirely reasonable. Respondents opposed the motion. Hearing on the motion was held on January 12, 2017, and the trial court issued a written order denying it on March 15, 2017.

⁷ Adams asserts in her opening brief that she initiated a federal court action against respondents in the Eastern District of California on March 31, 2017. We are not aware of anything in the appellate record to support this assertion.

⁸ Section 911.4, subdivision (c) lists limited means of tolling the one-year period, such as when a minor victim is mentally incapacitated or a dependent of the juvenile court. (§ 911.4, subd. (c).) None of these tolling provisions apply here.

⁹ Section 946.6 states in relevant part:

"(a) If an application for leave to present a claim is denied ..., a petition may be made to the court for an order relieving the petitioner from Section 945.4 [necessity of

leave to present a late claim under section 911.4 and the entity denied the petition. The petition also must give the reason for the petitioner's failure to present a claim within the time limits specified in section 911.2. (§ 946.6, subd. (b).)

The trial court must grant the petition if the petitioner demonstrates by a preponderance of the evidence that the late-claim application under section 911.4 was made within a reasonable time, not exceeding one year after the accrual of the cause of

written claim]. The proper court for filing the petition is a superior court that would be a proper court for the trial of an action on the cause of action to which the claim relates....

“(b) The petition shall show each of the following:

“(1) That application was made to the board under Section 911.4 and was denied or deemed denied.

“(2) The reason for failure to present the claim within the time limit specified in Section 911.2.

“(3) The information required by Section 910.

“The petition shall be filed within six months after the application to the board is denied or deemed to be denied pursuant to Section 911.6.

“(c) The court shall relieve the petitioner from the requirements of Section 945.4 if the court finds that the application to the board under Section 911.4 was made within a reasonable time not to exceed that specified in subdivision (b) of Section 911.4 and was denied or deemed denied pursuant to Section 911.6 and that one or more of the following is applicable:

“(1) The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect unless the public entity establishes that it would be prejudiced in the defense of the claim if the court relieves the petitioner from the requirements of Section 945.4.

“(2) The person who sustained the alleged injury, damage or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim.

“(3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of that disability failed to present a claim during that time.

“(4) The person who sustained the alleged injury, damages or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.”

action, and one of the other four requirements listed in section 946.6, subdivision (c), is met, which are the same exceptions set forth in section 911.6 (the public entity's consideration of a late claim application). (§ 946.6, subd. (c); *Munoz v. State of California* (1995) 33 Cal.App.4th 1767, 1777 (*Munoz*).) Here, Adams relied on two of the four requirements: (1) "[t]he failure to present the claim was through mistake, inadvertence, surprise or excusable neglect" and the public entity would not be prejudiced by the grant of relief; and (2) "[t]he person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the [six months] ... and by reason of that disability failed to present a claim during that time." (§ 946.6, subd. (c)(1) & (3).)

"In determining whether relief is warranted, the court will consider the petition, any affidavits submitted in support of or in opposition to the petition, and any other evidence presented at the hearing." (*Munoz, supra*, 33 Cal.App.4th at p. 1777; § 946.6, subd. (e).) "[A] petitioner has the burden of proving by a preponderance of the evidence the necessary elements for relief." (*Munoz*, at p. 1783.) "The determination of the trial court in granting or denying a petition for relief under Government Code section 946.6 will not be disturbed on appeal except for an abuse of discretion. Abuse of discretion is shown where uncontradicted evidence or affidavits of the plaintiff establish adequate cause for relief." (*Id.* at p. 1778.)

II. Timeliness of the Late-Claim Application

Adams's sole claim on appeal is that the trial court abused its discretion in denying her petition because she established her failure to file a timely claim resulted from excusable neglect. While respondents address this argument, they also contend, for the first time, that the trial court was jurisdictionally barred from granting relief under section 946.6 because Adams filed her late-claim application more than one year after accrual of any cause of action. Under section 946.6, filing a late-claim application within one year after the accrual of a cause of action is a jurisdictional prerequisite to a claim-relief

petition. When the claimant files the underlying late-claim application more than one year after accrual of the cause of action, the court has no jurisdiction to grant relief under section 946.6. (*J.J. v. County of San Diego* (2014) 223 Cal.App.4th 1214, 1221; *County of Los Angeles v. Superior Court* (2001) 91 Cal.App.4th 1303, 1313-1314; *Munoz, supra*, 33 Cal.App.4th at p. 1779.)

Even though respondents did not raise this issue in the trial court, court rulings in excess of jurisdiction are void and may be challenged at any time, as the parties cannot confer jurisdiction on the courts by consent. (*Sullivan v. Delta Air Lines, Inc.* (1997) 15 Cal.4th 288, 307, fn. 9; *Airlines Reporting Corp. v. Renda* (2009) 177 Cal.App.4th 14, 19-20.) Thus, even if the trial court did not deny the petition based on lack of jurisdiction and the issue is raised for the first time here, we must determine whether jurisdiction exists, since “[l]ack of jurisdiction can be raised at any time, even for the first time on appeal.” (*Dominquez v. County of Butte* (1966) 241 Cal.App.2d 164, 166.)

According to Adams’s claim, Soberon’s sexual assaults started in April 2012, with the last physical contact in April 2015, and his last phone threat occurred in June 2015. Assuming the date of accrual of any cause of action is the date of the last threat, it is undisputed Adams’s claim was untimely, as it was not filed within six months of June 2015. While Adams was required to file her late-claim application by June 30, 2016, at the latest, she did not file her application until July 20, 2016. Because the application was untimely, the trial court lacked jurisdiction to grant Adams relief under section 946.6.

Adams contends respondents are estopped from asserting the untimeliness of her claim because Soberon’s threats, and respondents’ intimidation, prevented or deterred her from presenting a timely claim. Pointing to statements made in her claim, late-claim application and petition, Adams asserts Soberon threatened to kill her if she took legal action against him; the other respondents dissuaded her from filing a claim, approaching law enforcement or seeking legal counsel; and she continued to fear Soberon would

retaliate against her until she learned of his arrest in March 2016. Adams argues that under the doctrine of equitable estoppel, respondents' acts "tolled the accrual of [Adams's] causes of action until at least March 2016," which made both her April 2016 claim and July 2016 late-claim application timely.

"It is well settled that a public entity may be estopped from asserting the limitations of the claims statute where its agents or employees have prevented or deterred the filing of a timely claim by some affirmative act. [Citations.] Estoppel most commonly results from misleading statements about the need for or advisability of a claim; actual fraud or the intent to mislead is not essential. [Citation.] A fortiori, estoppel may certainly be invoked when there are acts of *violence* or *intimidation* that are *intended* to prevent the filing of a claim." (*John R. v. Oakland Unified School Dist.* (1989) 48 Cal.3d 438, 445; *Doe v. Bakersfield City School Dist.* (2006) 136 Cal.App.4th 556, 567.) "In assessing the propriety of applying equitable estoppel, the court must assess not only whether the threats occurred, but also 'when the effect of any such threats ceased [and] whether plaintiffs acted within a reasonable time after the coercive effect of the threats had ended.' " (*V.C. v. Los Angeles Unified School Dist.* (2006) 139 Cal.App.4th 499, 517.)

Adams's estoppel claim fails for several reasons. First, as Adams concedes, she did not raise the issue of equitable estoppel below. "Estoppel must be pleaded and proved as an affirmative bar to a defense of statute of limitations." (*Munoz, supra*, 33 Cal.App.4th at p. 1785.) Since Adams did not expressly raise the doctrine of equitable estoppel below, and the trial court did not address or rule on it, she may not rely on the doctrine now. (*Ibid.*) While Adams contends she must be permitted to argue estoppel to rebut respondents' "novel contentions," the assertion of lack of jurisdiction is hardly novel. Moreover, it was Adams's burden to prove the timeliness of the late-claim application. (*Rodriguez v. County of Los Angeles* (1985) 171 Cal.App.3d 171, 175 (*Rodriguez*)) ["a petitioner has the burden of proving by a preponderance of evidence the

necessary elements for relief”]; § 946.6, subds. (b) & (c).) Her failure to even raise the issue below precludes her from doing so now.

Even if estoppel had been raised below, it lacks evidentiary support.¹⁰ The factual assertions regarding estoppel are made by Adams’s attorney in the late-claim application and petition, and her psychologist, with no showing that either her attorney or psychologist had any percipient knowledge of those facts. (See, e.g., *Rodriguez, supra*, 171 Cal.App.3d at p. 175.) No declaration was submitted from Adams attesting to the facts she claims support the application of estoppel. The April 2016 claim, while signed by Adams, is not verified under oath. (See Cal. Law Revision Com. com., 32 West’s Ann. Gov. Code (2012 ed.) foll. § 910.2, p. 392 [“Claims against local public entities are not required by existing law to be verified.”].) Moreover, although Adams explains in the claim that she did not timely file it because Soberon scared and intimidated her, the claim does not contain any facts supporting her attorney’s assertions that she feared Soberon would retaliate against her until she learned of his arrest in March 2016, or the other respondents dissuaded her from filing a claim, approaching law enforcement or seeking legal counsel. Finally, Adams failed to refute respondents’ evidence that the

¹⁰ Adams asserts she was not required to submit evidence in support of the petition. While section 946.6 does not expressly state a claimant’s petition must be verified or the required showing made by sworn affidavit or declaration, the burden placed on the claimant on such a petition necessarily requires some evidentiary showing as a predicate to the requested relief. (See *Bettencourt v. Los Rios Community College Dist.* (1986) 42 Cal.3d 270, 276 [“where uncontradicted evidence or affidavits of the petitioner establish adequate cause for relief [under section 946.6], denial of relief constitutes an abuse of discretion”]; *Ebersol v. Cowan* (1983) 35 Cal.3d 427, 435 [same].) Since it is the petitioner’s burden to prove the necessary elements for relief by a preponderance of the evidence, a trial court does not abuse its discretion in denying a petition that is “completely devoid of any evidentiary support.” (*Rodriguez, supra*, 171 Cal.App.3d at pp. 175-176 [trial court did not abuse its discretion in denying section 946.6 petition where petition contained no affidavits and was signed only by the petitioners’ attorney, and original claim and application for permission to file a late claim did not contain any competent evidence to support the petition].)

probation officers involved in her interviews never told her she should not make a report or retain counsel, or never attempted to dissuade her from talking to anyone else about her allegations.

In sum, since the late-claim application was filed more than a year after the last possible date Adams was injured, the trial court had no jurisdiction to decide the merits of the petition and properly denied it. Having determined the trial court lacked jurisdiction over the petition, we need not address Adams's argument the trial court erred in failing to consider whether she established the delay in filing her claim was due to excusable neglect.

DISPOSITION

The trial court's order denying Adams's petition for relief from the claim presentation requirements is affirmed.

DE SANTOS, J.

WE CONCUR:

PEÑA, Acting P.J.

SMITH, J.